

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Robert Michael Hughes,

Case No. 24-cv-3713 (LMP/DLM)

Petitioner,

v.

**REPORT AND  
RECOMMENDATION**

Lisa Stenseth, Warden,

Respondent.

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Petitioner Robert Michael Hughes challenges his state court convictions for first-degree premeditated murder and second-degree intentional murder for the 2005 shooting death of his wife. (Doc. 2). Mr. Hughes has sought habeas corpus relief previously from his convictions and sentence. *Hughes v. King*, No. 10-cv-0450 (MJD/SRN), 2010 WL 1576821, at \*1 (D. Minn. Mar. 4, 2010), *R. & R. adopted*, 2010 WL 1576820 (D. Minn. Apr. 20, 2010). That habeas petition was denied as untimely. Now, nearly fourteen years later, Mr. Hughes seeks habeas relief again.

Under 28 U.S.C. § 2244(b)(3)(A), a habeas petitioner in custody pursuant to a judgment of a state court filing a “second or successive” petition for a writ of habeas corpus must “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” Mr. Hughes has not received the necessary authorization from the Eighth Circuit Court of Appeals to seek habeas relief from his conviction and sentence for a second time. Because Mr. Hughes does not have the necessary authorization, this

Court lacks jurisdiction over his successive habeas petition. *See Burton v. Stewart*, 549 U.S. 147, 152 (2007). Accordingly, the petition should be denied without prejudice and this case dismissed. Finally, because the basis on which dismissal is recommended is not fairly debatable, it is further recommended that a certificate of appealability not be issued here. *See* 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

### **RECOMMENDATION**

Based on all the files, records, and proceedings in this case, **IT IS RECOMMENDED** that:

1. Petitioner Robert Michael Hughes’s petition for a writ of habeas corpus (Doc. 2) be **DENIED WITHOUT PREJUDICE** for lack of jurisdiction;
2. This action be **DISMISSED**; and
3. No certificate of appealability be issued.

Dated: October 8, 2024

s/Douglas L. Micko  
DOUGLAS L. MICKO  
United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served with a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).